

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

MCR OIL TOOLS, LLC	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:20-cv-00560-O
	§	
DMG MORI USA, INC. et al.,	§	
	§	
Defendants.	§	
	§	

**PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1)**

Pursuant to Federal Rule of Civil Procedure 26(a)(1) and the Joint Report, Plaintiff MCR Oil Tools, LLC, through their undersigned counsel, make the following initial disclosures to the Defendants in the above-referenced lawsuit. These disclosures are based on information presently known and reasonably available to Plaintiff and which Plaintiff reasonably believes they may use in support of their claims and defenses. Continuing investigation and discovery may cause Plaintiff to amend these initial disclosures, including by identifying other potential witnesses, documents and by disclosing other pertinent information. Plaintiff therefore reserves the right to supplement these initial disclosures.

By providing these initial disclosures, Plaintiff does not represent that they are identifying every document, tangible thing or witness possibly relevant to this action. In addition, these disclosures are made without Plaintiff in any way waiving their right

to object to any discovery request or proceeding involving or relating to the subject matter of these disclosures on any grounds, including competency, privilege, relevancy and materiality, hearsay, undue burden, confidentiality, or any other appropriate grounds. Furthermore, these disclosures are not an admission by Plaintiff regarding any matter.

**1. Individuals Likely to Have Discoverable Information**

Individuals likely to have discoverable information that Plaintiff may use to support its claims in the above-referenced lawsuit are identified in **Attachment A**, which by this reference is incorporated herein.

**2. Description of Documents**

The following enumerates documents, data compilations, and other tangible things in the possession, control or custody of Plaintiff that Plaintiff may use to support its claims:

- a. Machine Investment Contract;
- b. Purchase Order Addendum;
- c. Two (2) DMG Installation and Commissioning Protocols;
- d. Gildemeister Guides;
- e. DMG Moris Seiki University Binder;
- f. Correspondence with Esprit Cam;
- g. Correspondence with Gildemeister;
- h. Siemens Guide;

- i. Invoices with DFW Movers and Erectors;
- j. DMG Mori Magazines;
- k. MTTS Invoices;
- l. Correspondence with DMG Mori;
- m. Correspondence with MTTS;
- n. Apollo Machines Tool Invoices;
- o. DMG Mori Statements of Work;
- p. Photographs of machines;
- q. Risk of Loss/Damage Transfer;
- r. Two (2) Service Reports;
- s. DMG Mori Online Marketing Materials;
- t. DMG Mori Ellison Invoice;
- u. DMG Mori Applications Work Reports;
- v. DMG Mori Machine Quotation;
- w. DMG Mori CTX Production Turning Machine Brochure;
- x. Documents describing or evidencing the error messages on the machines;
- y. Documents describing the purposes for and uses of the two CTX Beta 1250 A Machines;
- z. Documents evidencing Defendants' abandonment and/or continued failed attempts to repair said machines described in Plaintiff's petition;

- aa. Documents evidencing actions taken by Plaintiff to comply with the provided instructions from DMG's managers and engineers;
- bb. Documents evidencing Defendant's fruitless efforts to resolve said issues;

**3. Computation of Damages**

Plaintiff seeks actual damages, lost profits, costs and attorney's fees. Plaintiff reserves the right to supplement this response as more information becomes available.

**4. Insurance**

None known to Plaintiff at this time. Plaintiff is continuing to investigate potential insurance coverage claims related to this lawsuit.

Dated: June 29, 2020.

Respectfully submitted,

**HARRIS ★ COOK, L.L.P.**

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/s/Marc A. Stach

MARC A. STACH

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ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing Plaintiff's Initial Disclosures were electronically filed with the Clerk of Court using the CM/ECF system that will automatically send email notification of such filing to the following attorneys of record.

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This 29<sup>th</sup> day of June, 2020.

/s/Marc A. S  
MARC A. STACH  
ATTORNEY FOR PLAINTIFF

ATTACHMENT A

MCR Oil Tools, LLC  
c/o Marc A Stach  
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*Plaintiff. Party to Purchasing Agreement.*

Michael Ward  
7327 Business Place  
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817-229-3910  
*MCR Oil Tools, LLC Employee. Knowledge of Purchasing Agreement and Continued Failure of Machines, Employee reached out via email correspondence on numerous occasions regarding the continued failure of machines, and related matters that form the basis of the claims or defenses asserted in this suit.*

Steve Fenstermacher  
7327 Business Place  
Arlington, Texas 76001  
817-701-5100  
*MCR Oil Tools, LLC's CFO. Knowledge of Machines failures and related matters that form the basis of the claims or defenses asserted in this suit.*

David Gorrell  
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*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

Jim Coleman  
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*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Nathan Barwick**  
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*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Colby Barksdale**  
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*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

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**817-243-1754**

*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Luis Aguilar**  
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**Arlington, Texas 76001**  
**817-849-0961**

*MCR Oil Tools, LLC Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Jeremy Davis**  
**c/o Apollo Machine Tool**  
**727 109<sup>th</sup> Street**  
**Arlington, Texas 76011**  
**817-633-6373**

*MCR Oil Tools, LLC Contractor. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Danny Greer**  
**c/o MTTS-Esprit Cad Cam**  
**817-861-9748**

*MCR Oil Tools, LLC Contractor. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*



Chad C. Swandt

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214-929-4471 or 972-812-5100 ext. 7117

*Ellison Technologies, Inc. Employee. Knowledge of Purchasing Agreement, actions taken by DMG Mori USA, Inc. and Ellison Technologies, Inc. during the course of the Agreement, and related matters that form the basis of the claims or defenses asserted in this suit.*

Ellison Technologies, Inc.

c/o Scott A. Shanes

Clark Hill Strasburger

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Frisco, Texas 75034

469-287-3906-Telephone

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Of Counsel

*Defendant. Party to Purchasing Agreement.*

DMG Mori USA, Inc.

c/o S. Jan Heuber

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*Defendant. Party to Purchasing Agreement.*

Gerald Owen

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Hoffman Estates, Illinois 60192

468-644-0027

*DMG Mori USA, Inc. Employee. Knowledge of Purchase Agreement, actions taken by Defendants' officers during the course of the Agreement, machine failures, and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

Kyle Helmlinger  
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281-810-9197 or 224-339-4827  
*DMG Mori USA, Inc. Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

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*DMG Mori USA, Inc. Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Mark Page**  
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**Darrel Vesper**  
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*DMG Mori USA, Inc. Employee. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Volker Vogt**

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*DMG Mori USA, Inc. Installation Engineer. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*

**Mark Bratton**

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*DMG Mori USA, Inc. Technician. Knowledge of Machines failures and some of the factual circumstances that form the basis of the claims or defenses asserted in this suit.*